

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

Plaintiff,

v.

AT&T SERVICES, INC., AT&T MOBILITY,  
LLC AND AT&T CORP.,

Defendants.

Case No. 2:23-cv-00397-JRG-RSP

LEAD CASE

Jury Trial Demanded

HEADWATER RESEARCH LLC,

Plaintiff,

v.

AT&T SERVICES, INC., AT&T MOBILITY,  
LLC AND AT&T CORP.,

Defendants.

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Jury Trial Demanded

**JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

Pursuant to Local Patent Rule 4-3, and the Court's Docket Control Order (Dkt. 41), Plaintiff Headwater Research, LLC ("Headwater") and Defendants AT&T Services, Inc., AT&T Mobility, LLC and AT&T Corp. ("AT&T") (collectively, "Parties") respectfully submit the following Joint Claim Construction and Prehearing Statement.

**I. AGREED CLAIM CONSTRUCTIONS (P.R. 4-3(a)(1))**

The Parties have not agreed to any claim constructions.

**II. DISPUTED CLAIM CONSTRUCTIONS (P.R. 4-3(a)(2))**

The Parties' proposed constructions of disputed terms are provided in the chart below. The Parties' proposed constructions are also set forth in the accompanying **Exhibit A**, along with the intrinsic and extrinsic evidence on which the parties intend to rely.

**A. U.S. Patent No. 8,589,541**

Term #	Claim Term	Headwater's Proposed Construction	AT&T's Proposed Construction
1	"one or more prospective or successful communications over a wireless network"  (Claim 1 and dependents)	Not indefinite; plain and ordinary meaning	Indefinite
2	"service usage activity"  (Claim 1 and dependents)	Plain and ordinary meaning; no construction necessary	"an activity by the first software component that requires usage of a wireless network connection"
3	"background activity"  (Claim 1 and dependents)	Not indefinite; plain and ordinary meaning	Indefinite

**B. U.S. Patent No. 9,215,613**

Term #	Claim Term	Headwater's Proposed Construction	AT&T's Proposed Construction
4	"differential traffic control policy"  (Claim 1 and dependents)	Plain and ordinary meaning; no construction necessary	"rules for controlling network traffic that distinguishes between two or more things"
5	"classify whether a particular application capable of both interacting with the user in a user interface foreground of the device, and at least some Internet service"	Not indefinite; plain and ordinary meaning	Indefinite

Term #	Claim Term	Headwater's Proposed Construction	AT&T's Proposed Construction
	activities when not interacting with the user in the device user interface foreground, is interacting with the user in the device user interface foreground"  (Claim 1 and dependents)		
6	"the user of the device is directly interacting with that application or perceiving any benefit from that application"  (Claim 6 and dependents)	Not indefinite; plain and ordinary meaning	Indefinite

**C. U.S. Patent No. 9,198,042**

Term #	Claim Term	Headwater's Proposed Construction	AT&T's Proposed Construction
7	"device service state"  (Claims 1 and dependents)	Plain and ordinary meaning; no construction necessary	"information about the current status of the device required to adequately define the actions needed from the service controller to maintain proper device-assisted service (DAS) system operation"
8	"service policy setting"  (Claim 1 and dependents)	"policy setting for a network data service"	"rule for governing network service usage that can be implemented on the device"
9	"protected partition"  (Claim 1 and dependents)	Plain and ordinary meaning; no construction necessary	"a secure device assisted service execution environment"

Term #	Claim Term	Headwater's Proposed Construction	AT&T's Proposed Construction
10	"service control link"  (Claim 1 and dependents)	Plain and ordinary meaning; no construction necessary	"host secure channel for communication between the end-user device and a network service controller"

**D. U.S. Patent No. 8,924,543**

Term #	Claim Term	Headwater's Proposed Construction	AT&T's Proposed Construction
11	"service plan component"  (Claim 1 and dependents)	Plain and ordinary meaning; no construction necessary	"a logical grouping of one or more filters and rules"

**III. ANTICIPATED LENGTH OF TIME NEEDED FOR THE CLAIM CONSTRUCTION HEARING (P.R. 4-3(a)(3))**

The parties estimate that three hours will be needed for the claim construction hearing. The parties agree that each side will be allocated half of the total time permitted for the hearing.

**IV. PROPOSED WITNESSES TO BE USED AT THE CLAIM CONSTRUCTION HEARING (P.R. 4-3(a)(4))**

No party proposes to call witnesses at the claim construction hearing.

**V. OTHER ISSUES TO BE ADDRESSED PRIOR TO CLAIM CONSTRUCTION HEARING (P.R. 4-3(a)(5))**

The parties are not currently aware of any issues that they would propose taking up at a prehearing conference prior to the claim construction hearing.

Dated: September 13, 2024

*/s/ Nicholas Mathews*

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AND AT&T SERVICES INC.

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**CERTIFICATE OF SERVICE**

I certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system.

/s/ Marc Fenster  
Marc Fenster  
*Attorney for Plaintiff,*  
*Headwater Research LLC*

**CERTIFICATE OF CONFERENCE**

I certify that that counsel complied with the requirements of Eastern District of Texas Local Rule CV-7(h). The parties agree on filing this joint statement.

/s/ Marc Fenster  
Marc Fenster  
*Attorney for Plaintiff,*  
*Headwater Research LLC*